

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

September 2, 2003

IN RE:

**PETITION FOR APPROVAL OF AMENDMENT
TO RESALE AGREEMENT BETWEEN
BELLSOUTH TELECOMMUNICATIONS, INC.
AND BELLERUD COMMUNICATIONS, LLC
F/K/A STATE DISCOUNT TELEPHONE, LLC**

**DOCKET NO.
03-00413**

**ORDER APPROVING
SECOND AMENDMENT TO RESALE AGREEMENT**

This matter came before Chairman Deborah Taylor Tate, Director Pat Miller and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on August 4, 2003, to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the second amendment to the resale agreement negotiated between BellSouth Telecommunications, Inc. and Bellerud Communications, LLC, formerly known as State Discount Telephone, LLC.¹

The original resale agreement and first amendment thereto between these parties were filed on April 11, 2003, and were assigned Docket No. 03-00275. They were approved at a regularly scheduled Authority Conference on July 7, 2003. The second amendment, which is the subject of this Docket, was filed on June 25, 2003.

¹ See *In Re: Petition of State Discount Telephone, LLC to Change its Name to Bellerud Communications, LLC*, Docket No. 02-01337, Order (January 27, 2003).

Based upon a review of the second amendment, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The amendment is in the public interest as it provides consumers with alternative sources of telecommunications services within the service area of BellSouth Telecommunications, Inc.
- 3) The amendment is not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).² Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the agreement is consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.
- 5) No person or entity has sought to intervene in this docket.
- 6) The amendment is reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

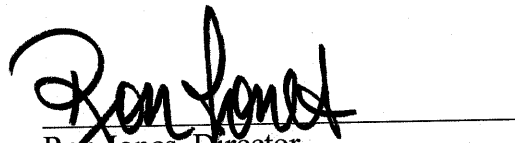
² See 47 U.S.C. § 252(e)(2)(B).

IT IS THEREFORE ORDERED THAT:

The Petition is granted, and the second amendment to the resale agreement negotiated between BellSouth Telecommunications, Inc. and Bellerud Communications, LLC, formerly known as State Discount Telephone, LLC, is approved and is subject to the review of the Authority as provided herein.


Deborah Taylor Tate, Chairman


Pat Miller, Director


Ron Jones, Director